

PATENT

Atty. Dkt. No. ATT 2001-0455

REMARKS

In view of the following discussion, the Applicants submit that none of the claims now pending in the application are anticipated under the provisions of 35 U.S.C. § 102. Various claims have been amended to address informalities. Thus, the Applicants believe that all of these claims are now in allowable form.

I. REJECTION OF CLAIMS 16-20 UNDER 35 U.S.C. § 102

The Examiner rejected claims 16-20 as being anticipated under 35 U.S.C. § 102 by Friedman, et al. (U.S. Patent Publication No. 2006/0146820, published on July 6, 2006, hereinafter referred to as "Friedman"). The Applicants respectfully traverse the rejection.

Friedman teaches a geo-intelligent traffic manager. A traffic manager determines the geographic locations of end points on Internet traffic and routes the traffic in the most efficient manner. (See Friedman, Abstract).

The Examiner's attention is directed to the fact that Friedman fails to teach or to suggest the novel concept of a method for instructing a plurality of servers to each operate a bandwidth method in response to receiving the access request, the bandwidth method determining an available bandwidth and receiving a bandwidth indication from each of the plurality of servers, as positively claimed by Applicants' independent claim 16. Specifically, Applicants' independent claim 16 recites:

16. A method of accessing a server comprising the steps of:
receiving an access request from a client;
instructing a plurality of servers to each operate a bandwidth method in response to receiving the access request, the bandwidth method determining an available bandwidth;
receiving a bandwidth indication from each of the plurality of servers;
selecting an identified server in response to receiving the bandwidth indication from each of the plurality of servers; and
redirecting the client to the identified server. (Emphasis added.)

In one embodiment, the Applicants' invention teaches a method of accessing a server comprising instructing a plurality of servers to each operate a bandwidth method in response to receiving the access request, the bandwidth method determining an available bandwidth and receiving a bandwidth indication from each of the plurality of

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servers. For example, the bandwidth probe may measure bandwidth performance measures such as throughput, delay and packet loss to determine which server a client should be directed to. (See e.g., Applicants' specification, p. 9, para. [0027].)

Friedman fails to anticipate the Applicants' invention because Friedman fails to teach or to suggest a method for instructing a plurality of servers to each operate a bandwidth method in response to receiving the access request, the bandwidth method determining an available bandwidth and receiving a bandwidth indication from each of the plurality of servers. Rather, Friedman teaches that a profile server stores bandwidth information transmitted by a web site. (See Friedman, para. [0118]). Notably, Friedman fails to teach or suggest that the bandwidth information is obtained in response to anything.

In stark contrast, the Applicants' invention teaches instructing a plurality of servers to each operate a bandwidth method in response to receiving the access request, the bandwidth method determining an available bandwidth. As a result, processing power, memory and bandwidth is not wasted in the Applicants' invention as the bandwidth method is determined only in response to receiving the access request. Moreover, the Applicants' invention provides the most current bandwidth information, unlike Friedman that teaches the information on the profile server may get "stale." (See Friedman, para. [0019]). Consequently, Friedman "occasionally" purges the information from the database. (See *Id.*). Thus, Friedman allows a website to possibly obtain "stale" bandwidth information, unlike the Applicants' invention which always provides current bandwidth information as the bandwidth method is performed by the servers in response to receiving the access request.

Moreover, Friedman fails to teach or suggest receiving a bandwidth indication from each of the plurality of servers. In fact, Friedman teaches away from the Applicants' invention because Friedman teaches that only one website may calculate bandwidth information. (See Friedman, para. [0118]). Friedman specifically teaches, as noted above, that "[t]he bandwidth information is preferably sent to the profile server and stored in the network speed database so that other sites in the network have the benefit of this bandwidth information without having to necessarily measure the bandwidth themselves." (See *Id.*, emphasis added). As a result, bandwidth indication is

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not received from each of the plurality of servers. Rather, Friedman teaches that some websites may simply use bandwidth information provided by other websites. In other words Friedman does not teach receiving a bandwidth indication from each of the plurality of servers, as taught by the Applicants' invention. Therefore, Friedman clearly fails to anticipate the Applicants' independent claim 16.

In addition, dependent claims 17-20 depend from independent claim 16 and recite additional limitations. As such, and for the exact same reason set forth above, the Applicants submit that claims 17-20 are also patentable and not anticipated by Friedman. As such, the Applicants respectfully request the rejection be withdrawn.


CONCLUSION

Thus, the Applicants submit that all of these claims now fully satisfy the requirements of 35 U.S.C. § 102. Consequently, the Applicants believe that all these claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring the issuance of a final action in any of the claims now pending in the application, it is requested that the Examiner telephone Mr. Kin-Wah Tong, Esq. at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully Submitted,

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